

Notice of Allowability	Application No.	Applicant(s)
	09/320,702	HANAI ET AL.
	Examiner	Art Unit

Michael W. Hoye

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to Amendment filed on 6/28/04.
2. The allowed claim(s) is/are 11-15, 17, 18 and 20-26.
3. The drawings filed on 27 May 1999 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____

DETAILED ACTION

Allowable Subject Matter

1. Claims 11-15, 17-18 and 20-26 are allowed.
2. The following is a statement of reasons for the indication of allowable subject matter:

As for claim 11, the prior art, alone or in combination, does not teach or fairly suggest a recording device... which receives EPG data added with average bit rate data as information indicating the data quantity of a program, and control means that calculates the data quantity of a program from the average bit rate data, and controls selection of a recording media to record program data based on the data quantity of the program and the capacity of the recording media. As for the most pertinent prior art of record, the Hawkins et al (USPN 6,005,561) reference discloses an average size and bit requirement or rate for each particular object, including a short video or program (see Fig. 5 and col. 12, lines 58-65). In Fig. 6, Hawkins discloses the amount of storage required by all media objects (col. 13, lines 14-16), and in Fig. 8, Hawkins discloses size requirements, overall bandwidth (or bit rate) requirements, and transmission times (col. 17, lines 36-53). However, Hawkins et al does not explicitly disclose adding the information indicating the data quantity of a program as average bit rate data to the EPG data, and there is no suggestion to control selection of a recording media.

Another reference, Bruls (US 2002/0012530), discloses a recording device that monitors the actual bit rate of a video program that is being recorded and adjusts the compression settings accordingly to achieve the target actual average bit rate in order to fit the program in the available data space (see Abstract and pg. 1, ¶[0001-0012]). However, Bruls does not explicitly

disclose adding information indicating the data quantity of a program as average bit rate data to the EPG data at the headend, and there is no suggestion to control selection of a recording media based on the data quantity of the program and capacity of the recording media. One of ordinary skill in the art would not have been motivated to arrive at the applicants' claimed invention by using the teachings of the Hawkins and/or Bruls references alone or in combination. The Hawkins and Bruls references do not teach or suggest a recording device...wherein the receive means receives EPG data added with average bit rate data as information indicating the data quantity of a program, and control means calculates the data quantity of said program from said average bit rate data, and controls selection of a recording media to record said program data based on the data quantity of said program and the capacity of said recording media. In the applicants' invention, the recording device as described above is disclosed.

As to independent claim 17, the claimed recording method is allowable based on the same reasons given above for claim 11.

As to independent claim 20, the claimed media for providing a program is allowable based on similar reasons given above for claim 11.

As to independent claims 12, 18, 21 and 22, the Hawkins and/or Bruls references as previously described above fail to teach or suggest, "selecting a recording media to record said program data based on said category of the program."

Two additional references by Masahiro Kuroda (USPN 6,311,011 and Japanese Application Publication Number 2000-184320), which do not constitute prior art due to later filing dates than the foreign priority date of the applicants' application, disclose a video recorder

with more than one storage device or media, wherein a recording device is selected for recording a program and if it is determined that the recording device does not have enough remaining storage capacity, another storage device or multiple additional storage devices may be available for recording. However, Kuroda does not explicitly disclose adding information indicating the data quantity of a program as average bit rate data to the EPG data at the headend, and there is no suggestion to control selection of a recording media based on the category of the program and capacity of the recording media.

Additional prior art made of record and not relied upon that are considered pertinent to applicant's disclosure.

Nagasawa et al (USPN 5,877,906) – Discloses a device for switching between multiple recording media based on a recordable time remaining calculation.

Beyers, Jr. et al. (USPN 4,808,992) – Discloses a system for continued recording by some devices when other run out of recording or playback media.

These references also do not teach or suggest the claimed features as described in the section above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is (703) 305-6954. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please address mail to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolator, etc.) as follows:

U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop _____
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Or faxed to: (703) 872-9306

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoye
January 7, 2005



JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600